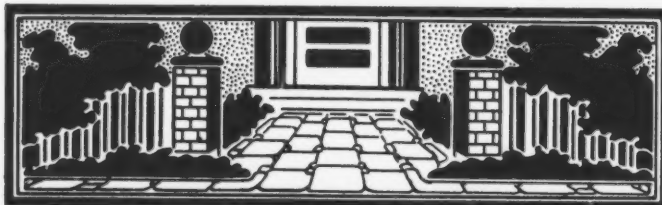


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National Institute of Mental Health

COMMUNITY MENTAL HEALTH CENTERS CONSTRUCTION GRANT PROGRAM POLICY AND PROCEDURES MANUAL



U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Public Health Service
Alcohol, Drug Abuse, and Mental Health Administration

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COMMUNITY MENTAL HEALTH CENTERS

CONSTRUCTION GRANT PROGRAM

POLICY AND PROCEDURES MANUAL

AUGUST 1989

National Institute of Mental Health

Alcohol, Drug Abuse, and Mental Health Administration

Public Health Service

U.S. Department of Health and Human Services

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The **Community Mental Health Centers (CMHC) Construction Grant Program Policy and Procedure Manual** has been developed for use by Federal officials, State Mental Health Authorities, and CMHC construction grantees. It represents the culmination of a collaborative project conducted by the Division of Education and Service Systems Liaison (DESSL), National Institute of Mental Health and by the Office of the General Counsel (OGC), Office of the Secretary, U.S. Department of Health and Human Services.

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FOREWARD

This manual sets forth policy and procedures for the Community Mental Health Centers (CMHC) Construction Grant Program. It covers program requirements, criteria for compliance, and Federal procedures in cases of non-compliance.

Background

The Community Mental Health Centers Act, enacted as Title II of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, Public Law 88-164, authorized grants for construction of public and other non-profit community mental health centers. Included in this Act was a provision allowing for the recovery of Federal funds, used in construction, if certain grant obligations were not met. The Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, transferred the recovery provision of the CMHC Act to the Public Health Service Act. Section 226 of the Health Professions Training Assistance Act of 1985, Public Law 99-129, significantly amended the recovery provision which is now located at section 2613 of the Public Health Service Act, 42 U.S.C. 300aaa-12 (see Appendix E).

The legislation requires CMHC construction grantees to provide mental health services in the manner specified by the law and regulations for a period of twenty years after occupying the facility supported by grant funds. The earliest use of a facility by a CMHC construction grantee was 1966. The service obligation for the entire universe of grantees will terminate beyond the year 2000, since there were a number of grant-supported facilities under construction in 1981 when the CMHC Act was repealed by the Omnibus Budget Reconciliation Act.

Purpose and Intended Effect

This manual is intended to enable Federal, State and local authorities, as well as grantees, to be fully cognizant of the requirements of the CMHC Construction Grant Program. It provides information as to what constitutes compliance; what are applicable waiver conditions; and how recapture of Federal funds occurs, when non-compliance cannot be corrected.

The policy and procedures presented here are for guidance only. They are not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

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CHAPTER I - PROGRAM REQUIREMENTS

The Community Mental Health Centers Act, Title II of Public Law 88-164, specifies that an eligible applicant for a CMHC construction grant under the Act must be a "State or a political subdivision thereof or... a public or other non-profit agency" (Sec. 205(a)). Among other requirements for approval of a project, the Act notes that "The Secretary shall approve such application if...the application is in conformity with the State plan...and contains an assurance that in the operation of the center there will be compliance with...the requirements...for furnishing needed services for persons unable to pay therefor" (Sec. 205(a)(6)(C)).

The Act also states "that services to be provided by the center, alone or in conjunction with other facilities owned or operated by the applicant or affiliated or associated with the applicant, will be part of a program providing, principally for persons residing in a particular community or communities in or near which such center is to be situated, at least those essential elements of comprehensive mental health services for mentally ill persons which are prescribed by the Secretary in accordance with regulations" (Sec. 205(a)(6)(D)).

Comprehensive Mental Health Services

The CMHC Regulations state that,

"The essential elements of comprehensive mental health services are:

- (1) Inpatient services.
- (2) Outpatient services.
- (3) Partial hospitalization services - must include at least day care service.
- (4) Emergency services provided 24 hours per day must be available within at least one of the first three services listed above.
- (5) Consultation and education services available to community agencies and professional personnel." 42 CFR 54.212(a).*

If the services provided in the facility constructed with Federal support do not constitute a comprehensive mental health service program, one that includes all the above listed essential elements of services, the grantee must demonstrate by appropriate agreements with agencies and providers that the services provided in the facility are part of a comprehensive program. The

* All regulations cited to 42 CFR Part 54 are those that were published in the Code of Federal Regulations prior to June 30, 1976, and which are set forth in Appendix F.

program must furnish all essential elements of services, taking into consideration the mental health needs of all age groups and assuring continuity of care.

Community Service

In providing a comprehensive mental health service program, the grantee must furnish a community service that is accessible and available to all persons in the service area (previously called "catchment area").

All persons in need of mental health services who reside in the service area are eligible for such services regardless of age, sex, race, color, creed, national origin, or diagnosis.

Below Cost and Free Service

The CMHC Act and Regulations specifically require that an applicant provide assurance that the grant will be used to furnish below cost or without charge a reasonable volume of services to persons unable to pay therefor. This obligation is separate and distinct from any obligation for below cost or free care incurred and met by the grantee for construction supported under the Hill-Burton Hospital Construction Grant Program, Title VI of the Public Health Service Act, or other authorities.

The CMHC Act and Regulations specify that persons unable to pay for services include persons who are otherwise self supporting, but are unable to pay the full cost of needed services. Such services may be paid for wholly or in part out of public funds or contributions of individuals and private charitable organizations or be contributed at the expense of the facility itself. In determining whether a grantee is providing a reasonable volume of services to persons unable to pay therefor, the National Institute of Mental Health (NIMH) will use as guidance the following criterion which is applied to Federally assisted facilities constructed under the Hill-Burton Program:

"Annual Compliance Level....a facility is in compliance with its assurance to provide a reasonable volume of services to persons unable to pay if it provides, for the fiscal year, uncompensated services at a level not less than the lesser of - (1) three percent of its operating costs for the most recent fiscal year for which an audited financial statement is available; or (2) ten percent of all Federal assistance provided to or on behalf of the facility, adjusted by a percentage equal to the percentage change in the National Consumer Price Index for medical care between the year in which the facility received assistance or 1979, whichever is later, and the most recent year for which a published Index is available." 42 CFR 124.503(a). (See Appendix D).

Continuity of Care

The comprehensive mental health service program provided through the Federally supported constructed facility or provided in association or affiliation with the facility must assure continuity of care.

The CMHC Regulations define continuity of care as assuring that:

- (1) any person eligible for treatment within any one element of service will also be eligible for treatment within any other element of service;
- (2) any patient within any one element can and will be transferred without delay to any other element (provided that adequate space is available) whenever such a transfer is indicated by the patient's clinical needs;
- (3) clinical information concerning a patient which was obtained within one element shall be made available to those responsible for that patient within any other element;
- (4) those responsible for a patient's care within one element can, when practicable and when not clinically contraindicated, continue to care for that patient within any of the other elements; and
- (5) in cases where two or more of the individual elements of services are provided by different organizations, or agencies, or persons, the relationships between the individual elements must be evidenced by appropriate contracts or other formal written agreements among the various organizations, agencies, or persons which make specific provisions for assuring the continuity of care described above. (42 CFR 54.212(c)).

Other Requirements

In addition to the obligations, requirements, and assurances indicated above, other requirements of the grantee are:

- (1) the medical responsibility for each patient will be vested in a physician;
- (2) psychiatric consultation will be available on a continuing and regularly scheduled basis, not less than once weekly;
- (3) overall direction of the CMHC will be carried out by a properly qualified member of one of the mental health professions;
- (4) general practitioners and other non-psychiatric physicians in the community served by the CMHC will be allowed, when qualified, to follow and assist in the care of their patients on the various services,

provided they are working under the supervision of a member of the psychiatric staff of the service;

- (5) the services of the program will not be denied to any person residing within the area served solely on the ground that such person does not meet the requirement for a minimum period of residence in such area;
- (6) the program will conform to the requirements of the Civil Rights Act of 1964 (78 Stat. 252; Public Law 88-352); and
- (7) all portions and services of the entire facility assisted by Federal support will be made available without discrimination on account of creed; and no professionally qualified person will be discriminated against on account of creed with respect to the privilege of professional practice in the facility.

CHAPTER II - COMPLIANCE

Criteria for Compliance

A CMHC construction grantee that occupies the facility constructed with Federal support under the construction grant is in compliance when it alone or in conjunction with other facilities owned or operated by it, or with facilities of agencies and organizations affiliated or associated with it, provides comprehensive community mental health services to persons residing in its service area and fulfills the requirements of the law and regulations governing the award of its grant. The grantee is responsible for providing directly or obtaining through other providers all the comprehensive community mental health services. Furthermore, unless the Secretary has granted a waiver, all the CMHC space which has received Federal assistance must be used for CMHC purposes.

Eligible Grantees

The CMHC Act specifies that eligible applicants for CMHC construction grants are either States or political subdivisions of a State, e.g., a county, city, etc., or a public or other not-for-profit agency or organization. For twenty years after completion of construction and occupancy, all operators of the facility must meet the requirements of eligibility that applied to the Federal grant that supported construction.

Sources of Information

The CMHC Act provided grants for construction of CMHC facilities on the basis of allotments to States, awarded within the State in accordance with the State mental health plan, to applicants that received initial approval by the State. In many instances, States provided the non-Federal share of funds that enabled a grantee to construct the facility. Hence, the oversight of this program has been a joint Federal and State effort.

The State Mental Health Authority (SMHA) is a major source for information regarding the obligations of CMHC construction grantees in the State.

Monitoring of federally supported CMHCs was performed by the Public Health Service (PHS) Regional Offices until abolition of their Divisions of Alcohol, Drug Abuse and Mental Health Programs in 1983. The Division of Education and Service Systems Liaison, NIMH, is now responsible for monitoring the CMHC Construction Grant Program. It uses a self-certification instrument, the CMHC Construction Grantee Checklist (Form ADM-593, Rev. 2-88; see Appendix B), and selected monitoring visits to determine compliance with requirements.

Other sources of information on CMHC construction grantees are their annual reports to their communities as well as reports by States, accrediting bodies, professional organizations, and insurers such as Medicare.

The CMHC Construction Grantee Checklist

In January 1985, NIMH carried out the first self-certification survey, requesting all CMHC construction grantees to complete the CMHC Construction Grantee Checklist and to forward a copy to the appropriate State Mental Health Authority. The checklist is to be completed annually by grantees and will serve as a mechanism for determining their compliance with the Act, Regulations, and conditions of their awards and for reporting changes in name or address of the grantee/CMHC or in the use of space. The checklist covers:

- (1) Title. The original grantee (recipient of the CMHC Construction Grant Award) or an approved transferee must hold title to the facility.
- (2) Use. The entire facility (or that portion of the facility constructed with CMHC construction grant funds) must be used to provide a community mental health center service program.
- (3) Services. The grantee must provide the essential elements of community mental health services: inpatient, outpatient, partial hospitalization (at least day care), emergency services 24 hours per day (within at least one of the first three services), and consultation and education (to community agencies and professional personnel).

If two or more of the essential elements are provided by different organizations, agencies or persons, the individual elements must be evidenced by appropriate contracts or other formal agreements among the various organizations, agencies or persons which make specific provisions for compliance with the Act, Regulations, and conditions of the grant.

- (4) Proprietary Interests. The grantee must be a State, subdivision thereof, or public or other nonprofit agency. Although it may contract with a proprietary or management organization to operate all or part of a CMHC program, such a contract must be for a fixed fee. Fees, incentive payments or salaries of the proprietary or management organization shall not be predicated upon any percentage of revenues or expenses.

The grantee must remain in control of the general policies which govern the operation of the CMHC program. The proprietary or management organization must abide by all requirements pertaining to the grant including, but not limited to, the provision of the five essential elements of mental health services to all persons in need of them (of those residing in the service area) regardless of age, race, color, national origin or diagnosis, as well as the provision of a reasonable volume of services to persons unable to pay therefor.

- (5) Program Criteria. The program criteria include, but are not limited to, assurance by the grantee of:

- (a) continuity of care for persons treated in any service of the program;
 - (b) care by mental health professionals; and
 - (c) availability of comprehensive community mental health services for all persons in need of such services who reside in the service area.
- (6) Community Service. The following community service conditions must be met by the CMHC grantee:
- (a) The grantee must offer a reasonable volume of services at below cost or without charge to persons who are unable to pay for them;
 - (b) Services must be made available without discrimination;
 - (c) No professionally qualified person is discriminated against on the basis of race, sex, color, creed or national origin with respect to the privilege of professional practice in the facility; and
 - (d) The grantee organization and all affiliated organizations must be in compliance with all applicable rules, regulations, and procedures prescribed by the Office of Civil Rights, DHHS.

Written Notice of Non-Compliance Required

All facilities which received CMHC grant assistance for new construction, acquisition, expansion, remodeling or alteration of an existing building are required to notify the Department of any change of status within their 20-year period of obligation. Specifically:

The transferor of a grant-assisted facility that is sold or transferred, or the owner of a facility which ceases to be a public or other non-profit community mental health center, must send to NIMH*, by certified mail, a written notice of such sale, transfer, or other change not later than 10 days after the date on which the sale, transfer, or change occurs.

*Mailing Address: National Institute of Mental Health, Room 11-C-26, 5600 Fishers Lane, Rockville, Maryland 20857, ATTN: Director, Division of Education and Service Systems Liaison

The date of the notice is critical in establishing whether the interest penalty will be imposed on the recovery amount. In the absence of a certified letter or the postmarked date, the date of receipt will be considered the date of notice.

The change-of-status notice must contain or be accompanied by:

- o the date of the sale, transfer, or other event that gives rise to the notice.
- o copies of any documents pertinent to the event giving rise to the notice. These documents include, but are not limited to:
 - (1) Sale contracts
 - (2) Lease agreements
 - (3) Merger documents (Articles of Incorporation, IRS nonprofit status certification)
 - (4) Closure documents (letter)
 - (5) Bankruptcy or foreclosure documents (Court decree, Articles of Incorporation)
 - (6) Reorganization Charters/Affiliation Agreements
 - (7) Management contracts
- o estimates of current assets, current liabilities, book value of equipment, the expected value of land on the new owner's books, and the remaining depreciation for all fixed assets involved in the transaction calculated on a straight line basis using commonly adopted expected useful lifetimes.

Failure to provide the above information will be considered a failure to provide the notice required by statute.

In any case in which such information has not been provided, NIMH will (upon receiving an incomplete notice or otherwise discovering a change of status) request the information needed to calculate the recovery amount.

If non-compliance with the requirements of a CMHC construction grant is indicated by any means other than a direct report from the grantee or a Federal-State site visit, further verification is usually necessary. Such verification should, whenever possible, be done in conjunction with the State Mental Health Authority (SMHA). This may involve a joint Federal-State site visit or a site visit by the State with a report of its findings to NIMH.

Role of the State Mental Health Authority

The Federal regulations pertaining to CMHC construction grantees specify that "the State agency shall promptly notify the Surgeon General in writing, if at any time within 20 years after the completion of construction, any facility which received funds under Title II of the Act is sold or transferred to any

person, agency, or organization not qualified to file an application under Title II of the Act or is not approved as a transferee by the State agency, or ceases to be a public or nonprofit community mental health center as defined in the Act" (42 CFR 54.213).

Since the enactment of the initial legislation and the issuance of subsequent regulations, many changes have occurred in both the Federal and State oversight of the CMHC Program. Federal changes stem from legislative and administrative actions. The role of the Federal Government as to all aspects of the CMHC Program, except oversight of CMHC construction grants, was altered by the Alcohol and Drug Abuse and Mental Health Services Block Grant (Public Law 97-35, section 901. (August 13, 1981)). The PHS Regional Offices' administrative oversight for the program was terminated with the closing of their Divisions of Alcohol, Drug Abuse and Mental Health Programs (DADAMHPs) in 1983. Monitoring of the CMHC Construction Grant Program reverted to NIMH at that time.

Similarly, the States have undergone changes since commencement of the initial Federal-State partnership in this effort. In many States, the construction agency involved in the initial grants was not the Mental Health Authority. During the 1960s, there were few States with identifiable, independent Mental Health Authorities. Consequently, in some instances, the present SMHA may have had little or no relationship with CMHC construction grantees in the State.

The intent of the basic CMHC Act was for States to play a key role in the CMHC Construction Grant Program. The determination of a grantee's compliance with the conditions of the grant and the reporting of that information to the National Institute of Mental Health are an important part of State responsibility.

Review of Circumstances

The principal events that lead to non-compliance by CMHC construction grantees are:

- (1) the sale or transfer of the facility to an ineligible entity; and/or
- (2) the use of the facility in a manner that does not conform to the requirements of the grant.

When either of these events occur, the circumstances need to be examined to determine how to rectify the situation. Once the grantee or buyer or transferee becomes aware of the consequences of the change in grant conditions caused by its action, it may find a way to resolve the problem or seek appropriate guidance.

Site Visits

Unless the grantee acknowledges non-compliance and discusses ways for resolution, a final determination that non-compliance exists will usually be made on the basis of a site visit.

Such a site visit should review requirements with (1) the grantee and the grantee's Governance Board; (2) the CMHC's Governance Board, if other than the grantee's; and (3) the Community Advisory Board for the facility, if such a Board exists. The findings of the site visit should be reported by the site visitors to the parties concerned prior to the end of the visit. Possible methods of achieving compliance should be discussed. (See the instructions for site visits in Appendix G).

Documentation

Findings of non-compliance should be fully documented. The specific provisions of the Law or Regulations that are not being met should be cited. A report of the site visit should describe the findings of the visit, to whom these findings were communicated during the visit, what suggestions for achieving compliance were discussed with the grantee, grantee's Board and other interested and concerned groups, and what the possible consequences of non-compliance are.

Notification

When it is determined that the use, operation, or conditions of ownership of the constructed facility are not in compliance with the requirements of the grant, the grantee and/or new owner and/or transferee will be notified by NIMH in writing. The letter will specify the areas of non-compliance, indicate the amount owed the Federal Government, demand payment within 30 days, and notify the addressee that interest will be charged in accordance with the CMHC recovery statute (see Appendix E).

CHAPTER III - WAIVERS

Criteria for a Waiver

As amended in 1985 by Public Law 99-129, the recovery statute does not permit waiver of the Federal right to recovery for "good cause" in the case of a sale or transfer of facilities constructed with grant support to ineligible entities.

With respect to facilities which cease to be community mental health centers, the CMHC Regulations state that, "If within 20 years after completion of any construction for which a construction grant has been made the facility shall cease to be a public or nonprofit community mental health center, the Surgeon General in determining whether there is good cause for releasing the applicant or other owner of the facility from the obligation to continue such facility as a public or other nonprofit community mental health center, shall take into consideration the extent to which:

- (a) the facility will be devoted by the applicant or other owner to use for another public purpose which will promote the purpose of the Act; or
- (b) there are reasonable assurances that for the remainder of the 20-year period other facilities not previously utilized for the care of the mentally ill will be so utilized and are substantially equivalent in nature and extent for such purpose." (42 CFR 54.214).

The authority for determining whether there is good cause for releasing the applicant or other owner of the facility from the obligation to continue such a facility as a public or other nonprofit community mental health center has been delegated to the Director of the National Institute of Mental Health.

Following the regulatory framework, the basic criteria to be considered in granting waivers are:

- (a) Whether the CMHC facility constructed with Federal grant support is used to provide another public service of the CMHC Act, such as any one or more of the five essential services, alcohol and/or drug abuse services, or mental health services for children.

In order to serve a "public" purpose, the facility must, at a minimum, operate as a public or nonprofit entity, provide a reasonable volume of below cost and free care, and provide a community service.

Example: A CMHC that received a Federal construction grant wishes to convert the CMHC facility to a specialized facility for the treatment of alcoholism. If the grantee agrees to operate the facility as a public or nonprofit entity for the remainder of the 20-year

period and meets other appropriate conditions including the provision of a community service and a reasonable volume of free care, a waiver would likely be granted.

(b) Whether the grantee will provide, or obtain the provision of, a substitute facility which will operate as a CMHC for the remainder of the 20-year period. The substitute facility must not have been previously used to care for the mentally ill and must be substantially equivalent in size, utility of space, and accessibility to persons residing in the same service area as the grant-supported facility. The program in the substitute facility must continue to operate as a CMHC in compliance with all the requirements of the Act, the Regulations, and the grant award. The grantee continues to be responsible for providing or obtaining the provision of a comprehensive mental health program that offers a reasonable volume of services for persons unable to pay therefor, furnishes a community service, and meets all the other requirements applicable to CMHC construction grantees. Although the grantee may use another entity to provide services in the new facility, the grantee continues to be responsible for operation of the CMHC just as was the case when services were provided in the original CMHC facility. There must be a written agreement between the grantee and the new entity that assures provision of CMHC services in compliance with the Act, the Regulations, and the grant award.

Examples: A CMHC that received a Federal construction grant exchanges an equivalent facility for the original facility and continues to provide comprehensive mental health services to persons residing in its service area in accordance with the requirements of the Act, the Regulations, and its grant award. A waiver would likely be granted.

A Federal construction grantee exchanges an equivalent facility for the original facility and uses another provider to deliver services. All obligations of the grant are met by the provider. The grantee continues to have oversight and responsibility. A waiver would likely be granted.

A grantee exchanges an equivalent facility for the original facility and uses another provider to provide all services and operate as a CMHC in the new facility. The grantee charges fair market rent for use of the alternate facility and provides no financial assistance to the provider in the operation of the CMHC. A waiver would probably be denied since the grantee is making no substantial commitment toward meeting the grant obligations.

The provider of a services program moves out of the CMHC facility constructed with Federal funds into a substitute facility and continues to provide the

services it provided before. The grantee changes the use of the CMHC facility to another purpose. The grantee does not own or assist in operating the substitute facility. A waiver would probably be denied since the original facility constructed with the Federal funds is no longer used to deliver the five essential services and the grantee has assumed no responsibility to deliver the required services.

A grantee changes the use of the CMHC facility, ceasing to provide comprehensive community mental health services. A new provider enters the service area, constructs an equivalent facility, and operates it as a CMHC in full compliance with the CMHC Act and Regulations. The grantee provides no assistance to the new provider to assume its obligations under the grant. A waiver would probably be denied inasmuch as the grantee no longer uses the CMHC facility for its original purpose and has not assisted the new provider in assuming the grant obligation.

Most waiver requests would be expected to fall within the examples discussed above, but there may be some that do not. In those instances, the Director of NIMH may, nevertheless, grant a waiver for "good cause" if he finds that adequate consideration has been provided to the United States in return for the construction grant and that the granting of the waiver is in the best interests of the United States. Consistent with the current priorities of the NIMH, a waiver would be considered where the CMHC facility is used to provide mental health services for the elderly, or to provide transitional housing or other supervised residential services for patients recently discharged from inpatient care. The facility must furnish a community service and a reasonable volume of free or below cost care.

Additional Conditions

At his discretion, the Director of NIMH may require grantees seeking a waiver to meet certain other conditions, before or at the time a waiver is granted. These conditions are intended to protect the interests of the United States and may take a variety of forms. Among the more common conditions that a grantee receiving a waiver may expect are:

- (1) All waivers are conditioned upon meeting the waiver's terms. Breach of any condition before the completion of the 20-year period permits the Federal Government to reassert its right to recovery under the grant.
- (2) The 20-year period of obligation is extended for the amount of time between the initial date of non-compliance with the conditions of the grant and the date of compliance with the terms of the waiver.

- (3) An acknowledgement of Federal interest must be filed in the chain of title of any substitute facility approved for the provision of services for the remainder of the twenty-year period of obligation. (See the sample acknowledgement in Appendix H).

Role of the State Mental Health Authority

All requests by CMHC construction grantees for waivers will normally be discussed by NIMH with the SMHA of the State in which the CMHC is located. The SMHA may be able to provide information concerning such requests that would not be available from other sources. It is also in the best interest of the SMHA to help grantees find ways to continue to provide comprehensive mental health services to persons residing in their service area, in order to avoid decreasing the amount of such services available to persons residing in the State.

Request for a Waiver

A CMHC construction grantee that wishes to be considered for a waiver must submit a written request to the Director, Division of Education and Service Systems Liaison, NIMH, Room 11-C-26, 5600 Fishers Lane, Rockville, Maryland 20857. The request should describe the intended change in use of the facility constructed with grant support or the proposed substitute facility that will be used to provide CMHC services. The request should thoroughly explain the reason for the change, e.g., cessation of services, and how the change in use or substitute facility will meet the criteria for a waiver as set forth above.

The request for a waiver must include full documentation such as resolutions of the Governance Board, agreements, contracts, leases, etc, in support of the request. Documents also must be provided by any entity which delivers services in lieu of the grantee to show that it is in compliance with the grant and will provide a reasonable volume of services for those unable to pay therefor. Normally, a resolution of the Board of Directors of the original facility or the substitute facility is required to support the waiver request. The resolution must indicate that the Board accepts responsibility for operating the facility in compliance with the waiver conditions, the exact nature of which would depend on the type of waiver sought and approved. (See the sample resolution in Appendix I). Where a substitute facility is proposed, the new space and usage must be described and its equivalence to the grant-constructed space and usage fully explained and documented. Prior uses of alternate facilities must be presented, indicating their use from the date of construction to the date they become substitutes for the grant-constructed facilities. The request should also describe the comprehensive community mental health services to be provided and how continuity of care will be assured.

Special attention must be given in the waiver request to explaining the amount of free or below cost care provided by the grantee or other provider. The amount of free care must be calculated and compared with the formula provided

in Chapter I of the manual. Documentation supporting this calculation or a written explanation stating how it was derived must be included. Also required is information describing the facility's publicity and outreach efforts to advise the community that services are available to the general public and that free and below cost care is available. This information is especially important where a substitute facility is proposed that did not previously operate as a public or non-profit entity or provide a community service or free care, or where the facility will be operated or managed by a proprietary organization.

Determination and Notification

Upon receipt of a request for a waiver, NIMH will acknowledge receipt and review the request along with supporting documents. NIMH will usually contact the SMHA and obtain its opinion regarding the request. Unanswered questions raised by the review will be communicated to the grantee. If necessary, a site visit will be made to obtain first-hand knowledge regarding the conditions and circumstances pertaining to the requested waiver.

If, after careful review, it is determined that a waiver is justified and in the best interest of the United States, the grantee will be so notified by the Director of NIMH. The notification will contain the reasons for approval, the conditions that must be met, and the obligations of the grantee for the remainder of the 20-year period.

If, after careful review, it is determined that a waiver is not warranted, the grantee will be so notified by the Director of NIMH. The notification will contain the reasons for disapproval and indicate what other options, if any, are available to the grantee. If the grantee is currently out of compliance, a demand for payment will be made at that time (unless NIMH already has done so).

Waiver Decision Final

In order to obtain a waiver, the grantee must demonstrate to the satisfaction of the Director of NIMH that all relevant criteria are met. It is the intention of this Chapter to indicate the criteria that will be used and, in determining whether they are met, careful judgment will be exercised. This Chapter is not intended, however, to create any new rights for the grantee or obligations on the Department. The Director's waiver decision is final and not subject to a right of appeal.

CHAPTER IV - RECOVERY OF FEDERAL FUNDS

Notice Requirement - Facility

As discussed in detail on page 8, the transferor of a grant-assisted facility that is sold or transferred, or the owner of a facility which ceases to be a public or other non-profit community mental health center is required to provide NIMH with written notice of the sale, transfer or other change in the facility's status within 10 days after that event occurs.

Notice Requirement - State Mental Health Authority

If the State Mental Health Authority finds that within the 20-year period after completion of construction, a facility which received funds under the CMHC Act to support its construction is sold or transferred to a person, agency, or organization not qualified to file an application under the Act, or not approved as the transferee, or the facility ceases to be a public or nonprofit CMHC as defined by the Act, the SMHA shall notify the NIMH in writing.

Determination of Recovery Action

The NIMH, in conjunction with the SMHA, will determine with the grantee, and/or the new owner, and/or the transferee its compliance with the Act, Regulations, and conditions of the grant.

If non-compliance is determined, the NIMH will send the grantee, and/or the new owner, and/or the transferee a Demand Letter that details the nature of the non-compliance which necessitates recovery action. The letter shall request repayment of an amount determined to be the value of the Federal Government's claim (enclosing a copy of the Government's computations), and request that the payment be made within 30 days to the "United States Treasury". The instructions will include addressing the payment to:

Director, DESSL, NIMH
Room 11-C-26
5600 Fishers Lane
Rockville, Maryland 20857

The Demand Letter shall indicate that interest will be charged in accordance with the recovery statute.

As amended in 1985 by Public Law 99-129, the recovery statute stipulates that interest will be charged on the amount of Federal recovery based upon the 90-day Treasury bill rate. In those cases where NIMH is given timely written notice within 10 days of the event that triggers recovery, an interest free grace period of 190 days after the event which triggers Federal recovery will be given to allow NIMH and the owner, transferor, or transferee of the CMHC facility to agree on the amount of Federal recovery or to allow a request for a waiver to be made. In those cases where timely written notice is not given,

interest will begin to accrue 11 days after Federal recovery is triggered. For those facilities that were sold, transferred, or ceased to be used prior to the enactment of the 1985 amendments, interest will begin to accrue on April 21, 1986.

Determination of Amount of Recovery

Section 2613 of the Public Health Service Act authorizes recovery of CMHC construction grants. It states that the "United States shall be entitled to recover...an amount bearing the same ratio to the then value...of so much of the facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the remodeling, construction, expansion, or acquisition of the project or projects" (Sec. 2613, 42 U.S.C. 300aaa-12).

CMHC construction grants were made to cover part of the cost of remodeling, construction, expansion, or acquisition of a facility. In the case of a bona fide sale of the facility, the United States is entitled to that portion of the sale price that represents the percent of the Federal investment in the facility. A bona fide sale is one in which the intent to sell is properly advertised by the owner and appropriate competition for the purchase occurs among willing buyers. The resulting sale price to the highest offerer may be used to establish the "then value" of the facility and thus provide a basis for determining the amount which the Federal Government should recover.

In the absence of a bona fide sale, the "then value" of the facility will be determined by the Index Appreciation/Depreciation Method. This uses the Engineering News Record (ENR) Building Cost Index (see Appendix C) to calculate the appreciation of the Federal share provided by the construction grant from the date the facility was occupied for the delivery of services under the grant to the date it was sold or transferred or ceased to be a CMHC. The depreciation is calculated as the percentage that the number of months of occupancy bears to the useful life of the facility. For new construction the useful life is 40 years, for an addition to an existing structure, it is 30 years, and for remodeling, it is 20 years. The appreciated value of the facility less the amount of depreciation on the date it ceased to meet the requirement for its CMHC construction grant is the "then value". The recovery amount is the Federal participation percent of the "then value".

In accord with both American Hospital Association and Internal Revenue Service Guidelines, equipment depreciation is calculated as follows:

Moveable: 12 - year life.

Fixed : 20 - year life.

Examples of the application of the formulae in cases of (1) new construction, (2) an addition to an existing structure, and (3) remodeling are provided as follows:

RECOVERY OF FEDERAL FUNDS

TYPE OF CONSTRUCTION: New Construction

Amount of Grant	\$ 900,000
Federal Share of Construction Costs	60%
Movable Equipment (Federal Share)	(60,000) ^{1/}
Date of Occupancy	May 1973
Date of Recovery Indicated	May 1983
Date Original 20-year Obligation Ends	May 1993

APPRECIATION:

Engineering News-Record	
Building Cost Index	
	1140 (5/73)
	2351 (5/83)

Percent of Increase $(2351 \div 1140)$	206.23%
--	---------

Appreciated Value of Construction (Excluding Equipment)	
$(\$840,000 \times 206.23\%)$	\$1,732,332

DEPRECIATION:Construction

Months of Occupancy	120
Months of Useful Life	480
Percent of Useful Life $(120 \div 480)$	25.0%
Amount of Depreciation $(\$1,732,332 \times 25.0\%)$	\$ 433,083

Movable Equipment

Months in Use	120
Months of Useful Life	144
Percent of Useful Life $(120 \div 144)$	83.3%
Amount of Depreciation $(\$60,000 \times 83.3\%)$	\$ 49,980

RECOVERY AMOUNT:

Replacement Construction	\$1,732,332
Less Depreciation	433,083
Subtotal, Construction Recovery	\$1,299,249
Purchase Price of Equipment	\$ 60,000
Less Depreciation	49,980
Subtotal, Equipment Recovery	\$ 10,020
Total Recovery	\$1,309,369

1/ Total Equipment in Project, \$100,000

RECOVERY OF FEDERAL FUNDS

TYPE OF CONSTRUCTION: Addition to Existing Structure

Amount of Grant	\$ 900,000
Federal Share of Construction Costs	60%
Movable Equipment (Federal Share)	(60,000) ^{1/}
Date of Occupancy	May 1973
Date of Recovery Indicated	May 1983
Date Original 20-year Obligation Ends	May 1993

APPRECIATION:

Engineering News-Record
Building Cost Index

1140 (5/73)
2351 (5/83)

Percent of Increase $(2351 \div 1140)$ 206.23%

Appreciated Value of Construction (Excluding Equipment)
(\$840,000 X 206.23%) \$1,732,332

DEPRECIATION:**Construction**

Months of Occupancy	120
Months of Useful Life	360
Percent of Useful Life $(120 \div 360)$	33.3%
Amount of Depreciation $(\$1,732,332 \times 33.3\%)$	\$ 576,867

Movable Equipment

Months in Use	120
Months of Useful Life	144
Percent of Useful Life $(120 \div 144)$	83.3%
Amount of Depreciation $(\$60,000 \times 83.3\%)$	\$ 49,980

RECOVERY AMOUNT:

Replacement Construction	\$1,732,332
Less Depreciation	576,867

Subtotal, Construction Recovery \$1,155,465

Purchase Price of Equipment	\$ 60,000
Less Depreciation	49,980

Subtotal, Equipment Recovery \$ 10,020

Total Recovery \$1,165,485

1/ Total Equipment in Project, \$100,000

RECOVERY OF FEDERAL FUNDS

TYPE OF CONSTRUCTION: Remodeling

Amount of Grant	\$ 900,000
Federal Share of Construction Costs	60%
Movable Equipment (Federal Share)	(60,000) ^{1/}
Date of Occupancy	May 1973
Date of Recovery Indicated	May 1983
Date Original 20-year Obligation Ends	May 1993

APPRECIATION:

Engineering News-Record
Building Cost Index

1140 (5/73)
2351 (5/83)

Percent of Increase $(2351 \div 1140)$ 206.23%

Appreciated Value of Construction (Excluding Equipment)
(\$840,000 X 206.23%) \$1,732,332

DEPRECIATION:Construction

Months of Occupancy	120
Months of Useful Life	240
Percent of Useful Life $(120 \div 240)$	50.0%
Amount of Depreciation $(\$1,732,332 \times 50.0\%)$	\$ 866,166

Movable Equipment

Months in Use	120
Months of Useful Life	144
Percent of Useful Life $(120 \div 144)$	83.3%
Amount of Depreciation $(\$60,000 \times 83.3\%)$	\$ 49,980

RECOVERY AMOUNT:

Replacement Construction	\$1,732,332
Less Depreciation	866,166
Subtotal, Construction Recovery	\$ 866,166
Purchase Price of Equipment	\$ 60,000
Less Depreciation	49,980
Subtotal, Equipment Recovery	\$ 10,020
Total Recovery	\$ 876,286

^{1/} Total Equipment in Project, \$100,000

Agreement Procedures

If the grantee accepts the recovery amount and sends payment within 30 days of notification, a letter confirming the receipt of payment will be sent by the NIMH releasing the grantee from any further obligation.

Disagreement Procedures

If the grantee does not agree with the recovery amount, it shall be given the opportunity to present its position regarding the reasons for disagreement. A careful review of the grantee's position and all relevant documentation supporting that position will be made by NIMH. After the review, NIMH will either present a new recovery amount or restate the original claim, indicating the reasons for rejection of the grantee's position. Interest on the claim will continue to accrue, except for the 190 day grace period if applicable, during any period of negotiation over the amount of recovery.

The maximum time period for concluding any negotiations concerning the value of grant-assisted facilities and the appropriate recovery amounts due the Federal Government will be 12 months. If agreement has not been reached by the end of a 12-month period, NIMH will send recovery actions to the Office of General Counsel for referral to the Department of Justice. The Department of Justice will then initiate the necessary legal proceedings to have the value of the facilities and the amounts due the Government determined by the U.S. District Court in accordance with the recovery statute.

CHAPTER V - SPECIAL CONSIDERATIONS

No Statute of Limitations

No statute of limitations exists which restricts the time period in which the United States may make recovery claims against the original grantee or succeeding owners or operators of a facility acquired, constructed, remodeled or expanded with CMHC construction grant funds. In United States v. Lutheran Medical Center, 524 F. Supp. 421 (D. Neb. 1981), aff. 680 F.2d 1211 (8th Cir. 1982), the Eighth Circuit decided the six-year statute of limitations (28 U.S.C. 2415) applicable to contracts does not apply to the Federal right of recovery under 42 USC 300aaa-12. See also, United States v. Palm Beach Gardens, 635 F.2d 377 (5th Cir. 1981), cert denied, 102 S.Ct. 635 (1981). In an unpublished decision, the District Court for the Middle District of California also ruled that the five-year statute of limitations applicable to an action for enforcement of any civil fine, penalty, or forfeiture (28 USC 2462) does not apply to CMHC recovery actions. United States v. Kaiser, C.A. No. 82-2924-RJK (C.D. Cal., June 9, 1983).

Closure

If a CMHC construction grant-assisted facility, or any portion of it, is closed, even if only temporarily, the grantee shall report such closing and the length of time that closure is expected to exist, to the NIMH and the SMHA. The SMHA must notify the NIMH of such closure, if the grantee has not done so already. If disposition of the facility or an agreement to reopen it has not occurred within six months, NIMH shall notify the grantee that a recovery claim shall be instituted unless disposition to an eligible entity is arranged. Because the intent of the grant was to encourage the provision of mental health services in the community, temporary closure in itself need not trigger recovery proceedings. But, any period of closure is added to the grantee's twenty-year obligation under the Act. The twenty-year requirement applies to the use of the facility for the purpose for which the grant was awarded. Hence, periods of non-service cannot be counted toward the 20-year obligation. Should it be determined that eligible use of the facility is not likely to resume, recovery based upon closure will be made.

Bankruptcy and Foreclosure

The CMHC construction grantee shall inform the NIMH and the SMHA of any pending foreclosure or filing of bankruptcy within the 20 years following occupancy of the facility. The SMHA must notify the NIMH if the grantee does not do so.

In filing for any type of bankruptcy or reorganization, under States or Federal law, the facility shall include the Director of NIMH, on behalf of the United States, in its list of creditors in order that the NIMH will be informed of all proceedings and other creditors will be informed of the Federal claim.

When notified of a pending foreclosure or bankruptcy, the NIMH shall immediately inform the Office of the General Counsel so that it can take the appropriate action to protect the Federal Government's recovery claim.

Consistent with the intent of the CMHC Act and the purpose of its construction grant to encourage the provision of comprehensive community mental health services, the NIMH may choose not to initiate a recovery action against an ineligible entity, such as a bank that acquires a CMHC construction grant-assisted facility through a foreclosure sale. Election not to initiate recovery action shall only occur when such ineligible entity serves as a conduit and, as promptly as possible and without gain (beyond a recoup of its costs), transfers the facility to an eligible entity that will continue to provide the required services and operate the CMHC in accordance with the Act and its Regulations.

Management Contracts

A contract between a CMHC construction grantee and a provider organization to deliver services in the facility constructed with Federal assistance shall provide compensation by a fixed fee to that organization. The contract may provide for incremental increases in the fee, i.e., based on the percentage of increase in the Consumer Price Index. In no case may fees, incentive payments, or salaries for the management be predicated on a percentage of revenues or expenses.

The contract must contain provisions requiring the management organization to comply with local, State, and Federal laws and regulations governing the operation of the facility and include an agreement to furnish a community service as well as a reasonable volume of services below cost or without charge to persons unable to pay therefor.

The contract shall contain provisions enabling the grantee's Governance Board to require the management organization to suspend any facility employee if the Board determines that the action of such employee is prejudicial to the quality of care delivered, the rendering of uncompensated care, or the provision of community service, as required by the grant, the Act, and the Regulations.

Safeguards must be built into the contract that permit the Board to protect its responsibilities for the facility and to the community in the event the management organization fails to perform according to the agreement.

The management organization shall not have policy authority over patient or client admission to the facility for services. The responsibility for establishing such policy must be vested in the Board.

APPENDICES

APPENDIX A

ABBREVIATIONS

CMHC Community Mental Health Center

DHHS U.S. Department of Health and Human Services

NIMH National Institute of Mental Health

PHS Public Health Service

SMHA State Mental Health Authority

The Secretary Secretary of DHHS

DEFINITIONS

Federal Share: The percentage of the approved project represented by the Federal CMHC construction grant.

Fixed Fee: An amount specified in a contract to be paid by a grantee for specifically listed services at explicitly stated intervals for a designated period of time.

Ineligible entity: An entity that would not have been eligible for a CMHC construction grant under the CMHC Act, such as a for-profit organization or a non-profit or public organization unwilling to make the required assurances.

Ineligible purposes: Use of the facility for purposes other than those specified by the CMHC Act, its Regulations, and the grant.

Recovery amount: That amount representing the Federal Government's recovery which is based upon its proportion of the original cost of construction as compared to the facility's "then value".

Then Value: The value of the facility when the program became out of compliance with the conditions of the grant, Act, or Regulations.

Transfer: Change of control, whether by sale, lease, merger, or other arrangement.

Other definitions are part of Appendix F (the CMHC Regulations).

DEPARTMENT OF HEALTH AND HUMAN SERVICES
PUBLIC HEALTH SERVICEAlcohol, Drug Abuse, and Mental Health Administration
National Institute of Mental HealthOMB No. 0930-0104
Approval Expires 6/30/90CMHC CONSTRUCTION GRANTEE
CHECKLIST

GRANT NUMBER

OCCUPANCY DATE

REPORTING PERIOD

From:

To:

INSTRUCTIONS:

Your organization was provided with funding for Community Mental Health Center (CMHC) facility construction through a project grant. (Construction includes new construction, acquisition, expansion, and remodeling and alteration of existing buildings.) Please provide (type or print) the basic identifying information requested in the box above and below, and complete the questionnaire. The collection of this information is authorized by 42 U.S.C. 300aaa-12 and those provisions of the CMHC Act and regulations in effect at the time your grant award was made. The information you provide should cover the entire reporting period as indicated above.

Legal Applicant: _____

Address: _____

Name of Center: _____

Address: _____

Name of Chief Executive:
(Certifying Representative) _____

Title: _____

Phone: _____

Name of Person Completing
this Form (if different): _____

Title: _____

Phone: _____

1. TITLE (54.213; 42 U.S.C. 300aaa-12)

Indicate whether the facility is currently owned by the original grantee. ☐ Yes ☐ No

If no, give the name and address of person or entity which now owns the facility, and legal status, i.e., profit, nonprofit, public.

2. USE (54.214; 42 U.S.C. 300aaa-12)

Indicate whether any portion of the constructed facility is being used for purposes other than the provision of the five mental health services required to be provided by the grantee. ☐ Yes ☐ No

If yes, indicate how much of the constructed facility is being used for other purposes and what are those other purposes.

3. SERVICES (54.201(d), 54.212(a))

The following five basic mental health services are required. For each service, indicate whether the service is being provided and whether the grantee is the provider. If the provider is not the grantee agency, indicate whether there is a contract or other formal written agreement between the grantee and the provider.

(a) Inpatient Mental Health

Is service available? ☐ Yes ☐ No

Is service provided by grantee? ☐ Yes ☐ No

If service is not provided by grantee, is there a contract or other formal agreement between the grantee and the provider, signed by authorized representatives of both organizations? ☐ Yes ☐ No

(b) Outpatient Mental Health

Is service available? ☐ Yes ☐ No

Is service provided by grantee? ☐ Yes ☐ No

If service is not provided by grantee, is there a contract or other formal written agreement between the grantee and the provider, signed by authorized representatives of both organizations? ☐ Yes ☐ No

(c) Partial Hospitalization/Day Treatment, Mental Health

Is service available? ☐ Yes ☐ No

Is service provided by grantee? ☐ Yes ☐ No

If service is not provided by grantee, is there a contract or other formal written agreement between the grantee and the provider, signed by authorized representatives of both organizations? ☐ Yes ☐ No

(d) Twenty-four Hour Mental Health Emergency Service

Is service available? ☐ Yes ☐ No

Is service provided by grantee? ☐ Yes ☐ No

If service is not provided by grantee, is there a contract or other formal written agreement between the grantee and the provider, signed by authorized representatives of both organizations? ☐ Yes ☐ No

(e) Mental Health Consultation and Education Services

Is service available? ☐ Yes ☐ No

Is service provided by grantee? ☐ Yes ☐ No

If service is not provided by grantee, is there a contract or other formal written agreement between the grantee and the provider, signed by authorized representatives of both organizations? ☐ Yes ☐ No

4. PROPRIETARY INTERESTS (54.213, 54.214; 42 U.S.C. 300aaa-12)

Indicate whether any portion of the facility or any of the five mental health services required to be provided by the grantee are operated by a proprietary organization or management firm. ☐ Yes ☐ No

If yes, give the name and address of the proprietary organization or management firm and indicate what part of the facility or services the organization or firm is operating.

5. PROGRAM CRITERIA (54.212)

The services provided within the facility and through arrangements with other providers must constitute a program providing at least the five essential elements of comprehensive mental health services. The five essential elements are: inpatient services, outpatient services, partial hospitalization services, emergency services, and consultation and education services. Indicate whether the following criteria of a comprehensive program are in effect within the facility and/or between the grantee and any other provider of the five elements of comprehensive services:

- (a) Any person eligible for treatment in any one element is also eligible for treatment in each of the remaining elements (54.212(c)(1)(i)).
This criterion is met: ☐ Yes ☐ No
- (b) Any patient within any one element can and will be transferred without delay to any other element (provided that adequate space is available) whenever such a transfer is indicated by the patient's clinical needs (54.212(c)(1)(ii)).
This criterion is met: ☐ Yes ☐ No
- (c) Clinical information concerning a patient which is obtained within one element is made available to those responsible for that patient's treatment within any other element (54.212(c)(1)(iii)).
This criterion is met: ☐ Yes ☐ No
- (d) Those responsible for a patient's care within one element can, when practicable and when not clinically contraindicated, continue to care for that patient within any of the other elements (54.212(c)(1)(iv)).
This criterion is met: ☐ Yes ☐ No
- (e) Medical responsibility for each patient is vested in a physician (54.212(c)(2)).
This criterion is met: ☐ Yes ☐ No
- (f) Psychiatric consultation is available on a continuing and regularly scheduled basis, not less than once weekly (54.212(c)(2)).
This criterion is met: ☐ Yes ☐ No
- (g) Overall direction of the center is carried out by a properly qualified member of any one of the mental health professions (54.212(c)(3)).
This criterion is met: ☐ Yes ☐ No
- (h) General practitioners and other non-psychiatric physicians in the community served by the program will be allowed, when qualified, to follow and assist in the care of their patients on the various services of the program provided they are working under the supervision of a member of the psychiatric staff of the service (54.212(c)(4)).
This criterion is met: ☐ Yes ☐ No
- (i) Services of the program are not denied to any person residing within the area served solely on the grounds that such person does not meet a requirement for a minimum period of residence in such area (54.212(c)(5)).
This criterion is met: ☐ Yes ☐ No

6. COMMUNITY SERVICE (54.210)

Services provided in the facility or through other providers must have a community service orientation. Indicate whether the following assurances are in effect within the facility and between the grantee and any other provider of the five basic services:

- (a) Services are furnished below cost or without charge to persons unable to pay therefor, including persons who are otherwise self-supporting but are unable to pay the full cost of needed services. (Such services may be paid for wholly or partly out of public funds or contributions of individuals and private and charitable organizations, or may be contributed at the expense of the grantee (54.210(a)(2)).

This assurance is in effect: ☐ Yes ☐ No

- (b) No professionally qualified person is discriminated against on the basis of race, color, creed, or national origin with respect to the privilege of professional practice in the facility (54.210(a)(3)).

This assurance is in effect: ☐ Yes ☐ No

- (c) The grantee organization and all affiliated organizations do not exclude from participation in, or deny the benefits of, any program or activity to any person on the ground of race, creed, color or national origin (54.210(a)(3) and (b)).

This assurance is in effect: ☐ Yes ☐ No

- (d) The grantee organization and all affiliated organizations are in compliance with all applicable rules, regulations, and procedures prescribed by the Office of Civil Rights (54.210(b)).

This assurance is in effect: ☐ Yes ☐ No

CERTIFICATION OF RESPONSES TO CHECKLIST

I certify that the information provided above in response to this checklist is true and accurate to the best of my knowledge.

Signature

Date

Name

Title

Phone Number

Please return in the enclosed postage-free self-addressed business reply envelope. False information provided to the National Institute of Mental Health on the operation or status of the constructed community mental health center facility may be punishable by a fine or imprisonment (U.S. Code, Title 18, Section 1001).

BUILDING COST INDEX HISTORY 1966 - 1988

	<u>Monthly</u>												Annual
	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Avg.
1966	635	641	643	649	652	656	653	655	656	655	655	655	650
1967	656	657	659	660	666	671	673	678	681	684	685	687	675
1968	692	695	698	701	710	718	721	729	741	747	747	755	721
1969	764	770	780	790	791	798	792	799	796	797	801	802	790
1970	802	801	802	813	827	834	848	851	857	862	866	866	836
1971	875	877	905	913	933	946	959	970	996	997	1001	1005	948
1972	1011	1016	1022	1027	1039	1047	1053	1057	1067	1070	1082	1090	1048
1973	1102	1114	1123	1135	1140	1138	1137	1144	1150	1156	1155	1158	1138
1974	1156	1154	1155	1177	1177	1199	1233	1240	1238	1246	1239	1240	1204
1975	1242	1265	1265	1269	1287	1307	1317	1330	1333	1351	1349	1354	1306
1976	1362	1370	1378	1391	1398	1416	1425	1455	1467	1476	1479	1484	1425
1977	1489	1499	1504	1506	1507	1521	1539	1554	1587	1618	1604	1607	1545
1978	1609	1617	1620	1621	1652	1663	1696	1705	1720	1721	1732	1734	1674
1979	1740	1740	1750	1749	1753	1809	1829	1849	1900	1900	1901	1909	1819
1980	1897	1896	1918	1902	1891	1919	1953	1974	1976	1976	2000	2017	1943
1981	2015	2016	2014	2064	2076	2083	2109	2134	2154	2151	2181	2178	2098
1982	2184	2198	2192	2197	2199	2225	2258	2259	2263	2262	2268	2297	2233
1983	2311	2348	2352	2347	2351	2388	2414	2428	2430	2416	2419	2406	2384
1984	2402	2407	2412	2422	2419	2417	2418	2428	2430	2424	2421	2408	2417
1985	2410	2414	2406	2405	2411	2429	2448	2438	2431	2434	2439	2439	2428
1986	2433	2442	2444	2455	2479	2503	2499	2496	2504	2509	2509	2510	2482
1987	2513	2509	2516	2521	2523	2526	2538	2557	2565	2569	2564	2589	2541
1988	2579	2581	2591	2596	2597	2595	2598	2611	2612	2612	2616	2617	2600
1989	2619	2613	2616	2620	2621	2626							

APPENDIX D

05/23/89

UNITED STATES DEPARTMENT OF LABOR
BUREAU OF LABOR STATISTICS
LABSTAT SERIES REPORT

SURVEY CU SERIES CU000000SAS BEGIN DATE 35/83		CONSUMER PRICE INDEXES FOR URBAN POPULATION U.S. CITY AVERAGE MEDICAL CARE 1982-84=100 ALL URBAN CONSUM												NOT SEASONALLY ADJUSTED DATE OF LAST UPDATE 05/17/89	
YR1		JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	ANNUAL	
35				10.2	NA	NA	NA	10.2	NA	NA	10.2	NA	NA	NA	10.2
36	10.2	NA	NA	NA	10.2	NA	NA	10.2	NA	NA	10.2	NA	NA	NA	10.2
37	NA	NA	NA	10.3	NA	NA	10.3	NA	NA	10.3	NA	NA	NA	NA	10.3
38	NA	NA	NA	10.3	NA	NA	10.3	NA	NA	10.3	NA	NA	NA	NA	10.3
39	NA	NA	NA	10.3	NA	NA	10.4	NA	NA	10.4	NA	NA	NA	NA	10.4
40	NA	NA	NA	10.4	NA	NA	10.3	NA	NA	10.3	NA	NA	NA	NA	10.4
41	NA	NA	NA	10.4	NA	NA	10.4	NA	NA	10.4	NA	NA	NA	NA	10.4
42	NA	NA	NA	10.6	NA	NA	10.7	NA	NA	10.8	NA	NA	NA	NA	10.7
43	NA	NA	NA	11.1	NA	NA	11.2	NA	NA	11.4	NA	NA	NA	NA	11.2
44	NA	NA	NA	11.5	NA	NA	11.5	NA	NA	11.6	NA	NA	NA	NA	11.6
45	NA	NA	NA	11.8	NA	NA	11.9	NA	NA	11.9	NA	NA	NA	NA	11.9
46	NA	NA	NA	12.2	NA	NA	12.4	NA	NA	12.7	NA	NA	NA	NA	12.5
47	13.2	13.3	13.3	13.3	13.4	13.5	13.5	13.5	13.6	13.7	13.8	13.8	13.9	13.5	13.5
48	14.0	14.0	14.1	14.1	14.3	14.3	14.3	14.5	14.5	14.5	14.6	14.7	14.7	14.6	14.6
49	14.8	14.8	14.8	14.8	14.8	14.8	14.8	14.8	14.9	14.9	14.9	14.9	14.9	14.8	14.8
50	15.0	15.0	15.0	15.0	15.0	15.0	15.0	15.1	15.1	15.2	15.3	15.3	15.4	15.1	15.1
51	15.5	15.5	15.7	15.7	15.7	15.8	15.8	15.8	15.9	15.9	16.0	16.1	16.3	15.9	15.9
52	16.4	16.4	16.5	16.5	16.5	16.5	16.8	16.8	16.8	16.9	16.9	16.9	17.0	16.7	16.7
53	17.0	17.0	17.0	17.1	17.1	17.2	17.3	17.3	17.4	17.5	17.5	17.6	17.6	17.3	17.3
54	17.6	17.7	17.7	17.8	17.8	17.8	17.8	17.8	17.9	17.9	17.9	18.0	18.0	17.8	17.8
55	18.0	18.1	18.1	18.1	18.1	18.2	18.2	18.2	18.2	18.3	18.4	18.5	18.6	18.2	18.2
56	18.6	18.7	18.7	18.8	18.8	18.8	18.8	18.9	19.0	19.1	19.1	19.2	19.2	18.9	18.9
57	19.3	19.3	19.5	19.5	19.5	19.6	19.7	19.7	19.8	19.8	19.9	20.0	20.1	19.7	19.7

APPENDIX D

05/23/89

UNITED STATES DEPARTMENT OF LABOR
BUREAU OF LABOR STATISTICS
LABSTAT SERIES REPORT

SERIES CU000005A3		U.S. CITY AVERAGE MEDICAL CARE 1982-84=100 ALL URBAN CONSUM (CONTINUED)											
YRI	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	ANNUAL
58	20.2	20.2	20.3	20.4	20.5	20.6	20.7	20.7	20.9	21.0	21.0	21.0	20.6
59	21.1	21.2	21.3	21.3	21.4	21.5	21.5	21.6	21.7	21.7	21.8	21.8	21.5
60	21.9	22.0	22.1	22.2	22.2	22.2	22.3	22.3	22.4	22.4	22.5	22.5	22.3
61	22.6	22.7	22.7	22.8	22.9	22.9	23.0	23.0	23.1	23.1	23.1	23.2	22.9
62	23.2	23.3	23.4	23.5	23.5	23.6	23.6	23.6	23.6	23.7	23.7	23.7	23.5
63	23.8	23.9	23.9	24.0	24.0	24.1	24.2	24.2	24.2	24.2	24.3	24.3	24.1
64	24.4	24.4	24.4	24.5	24.5	24.6	24.6	24.7	24.7	24.7	24.7	24.8	24.6
65	24.8	24.9	25.0	25.1	25.1	25.2	25.3	25.3	25.3	25.3	25.4	25.5	25.2
66	25.6	25.6	25.8	25.9	26.0	26.2	26.3	26.4	26.7	26.9	27.0	27.2	26.3
67	27.4	27.5	27.7	27.8	28.0	28.1	28.2	28.3	28.5	28.6	28.8	28.9	28.2
68	29.1	29.2	29.4	29.6	29.6	29.7	29.9	30.0	30.2	30.4	30.5	30.7	29.9
69	30.9	31.2	31.4	31.6	31.8	32.0	32.1	32.3	32.5	32.5	32.6	32.6	31.9
70	32.7	33.0	33.3	33.5	33.7	33.9	34.2	34.3	34.5	34.6	34.7	35.0	34.0
71	35.2	35.4	35.7	35.9	36.1	36.2	36.4	36.6	36.7	36.5	36.5	36.6	36.1
72	36.7	36.9	37.0	37.1	37.2	37.3	37.4	37.4	37.5	37.7	37.8	37.8	37.3
73	38.0	38.1	38.2	38.3	38.5	38.6	38.7	38.7	38.9	39.6	39.7	39.8	38.8
74	40.0	40.4	40.8	41.0	41.4	42.1	42.6	43.3	43.7	44.0	44.3	44.8	42.4
75	45.3	45.9	46.3	46.7	47.0	47.3	47.8	48.1	48.5	48.8	48.8	49.2	47.5
76	49.7	50.3	50.8	51.1	51.4	51.7	52.2	52.6	52.9	53.2	53.9	54.1	52.0
77	54.6	55.1	55.6	56.1	56.4	56.8	57.3	57.7	58.1	58.3	58.6	58.9	57.0
78	59.5	60.1	60.4	60.7	61.1	61.3	61.8	62.3	62.7	63.3	63.9	64.1	61.8
79	65.0	65.5	65.9	66.2	66.5	66.9	67.5	68.1	68.6	69.2	69.8	70.6	67.5
80	71.5	72.6	73.3	73.8	74.2	74.5	75.1	75.6	76.2	76.8	77.3	77.6	74.9
81	78.7	79.6	80.2	80.8	81.4	82.1	83.2	84.3	84.9	85.8	86.8	87.3	82.9
82	88.2	89.0	89.8	90.6	91.2	91.9	92.9	93.8	94.6	95.4	96.3	96.9	92.5

APPENDIX E

STATUTE REGARDING RECOVERY

Sec. 2613 of Public Health Service Act, 42 U.S.C. 300aaa-12.

Recovery

Sec. 2613 [300aaa-12] (a) If any facility with respect to which funds have been paid under the Community Mental Health Centers Act (as such Act was in effect prior to October 1, 1981) is, at any time within twenty years after the completion of remodeling, construction, or expansion or after the date of its acquisition--

(1) sold or transferred to any entity (A) which would not have been qualified to file an application under section 222 of such Act (as such section was in effect prior to October 1, 1981) or (B) which is disapproved as a transferee by the State mental health agency or by another entity designated by the chief executive officer of the State, or

(2) ceases to be used by a community mental health center in the provision of comprehensive mental health services, the United States shall be entitled to recover from the transferor, transferee, or owner of the facility, the base amount prescribed by subsection (c)(1) plus the interest (if any) prescribed by subsection (c)(2).

(b) The transferor and transferee of a facility that is sold or transferred as described in subsection(a)(1), or the owner of a facility the use of which changes as described in subsection (a)(2), shall provide the Secretary written notice of such sale, transfer, or change within 10 days after the date on which such sale, transfer, or cessation of use occurs or within 30 days* after the date of enactment of this subsection, whichever is later.

(c)(1) The base amount that the United States is entitled to recover under subsection (a) is the amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district in which the facility is situated) of so much of the facility as constituted an approved project or projects as the amount of the Federal participation bore to the cost of the remodeling, construction, expansion, or acquisition of the project or projects.

(2)(A) The interest that the United States is entitled to recover under subsection (a) is the interest for the period (if any) described in subparagraph (B) at a rate (determined by the Secretary) based on the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned during that period.

(B) The period referred to in subparagraph (A) is the period beginning--

(i) if notice is provided as prescribed by subsection (b), 191 days after the date on which such sale, transfer, or cessation of use occurs, or

(ii) if notice is not provided as prescribed by subsection (b), 11 days after such sale, transfer, or cessation of use occurs, and ending on the date the amount the United States is entitled to recover is collected.

(d) The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility (under such conditions as the Secretary may establish by regulation) if the Secretary determines that there is good cause for waiving such rights.

(e) The right of recovery of the United States under subsection (a) shall not, prior to judgment, constitute a lien on any facility.

*Since this subsection was enacted in 1985, the 30-day period is no longer applicable.

**Appendix B—Prior Regulations
Imposing Continuing Programmatic
Obligations Upon Recipients of
Construction and Staffing Grants ***

This appendix sets forth those provisions of Subpart C and Subpart D of 42 CFR Part 54 as they appeared prior to the revision of June 30, 1976 (41 FR 26906) which are applicable to, and impose continuing programmatic obligations upon, recipients of construction and staffing grants, respectively, initially awarded from appropriations made under the authority of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 as it was in effect prior to the enactment (on July 29, 1975) of the Community Mental Health Centers Amendments of 1975 (Title III of Pub. L. 94-63). Provisions of Subparts C and D which do not impose continuing programmatic obligations are not reprinted in this appendix.

For those staffing grant recipients who have received grants awarded from appropriations made under the authority of the Act prior to the 1975 Amendments and who also receive grants subsequent to the 1975 Amendments under the authority of section 203(e) of the Community Mental Health Centers Act, §§ 54.302(b), (c), and (d)(2)(iv) and 54.308 of Subpart D as set forth in this appendix are superseded by the 1975 Amendments or the regulations thereunder, or both. These provisions are noted in the appendix in brackets.

Construction and staffing grant recipients may have obligations other than those set forth in the regulations reprinted in this appendix imposed upon them through the authorizing legislation, the terms and conditions of previous construction or staffing grant awards, or through the conditions applicable to other grants awarded to them under the Community Mental Health Centers Act.

**Subpart C—Grants for Construction of
Community Mental Health Centers**

- 54.201 Definitions.
- 54.203 State plan: elements of adequate services; facilities; relationship to other planning.
- 54.209 State plan: assurances from applicant.
- 54.210 Community service: services for persons unable to pay; nondiscrimination.
- 54.212 Projects: essential elements of comprehensive mental health services; program requirements.
- 54.213 Change of status of facility.
- 54.214 Good cause for other use of facility.
- 54.214a Applicability of 45 CFR Part 74.

**Subpart C—Grants for Construction of
Community Mental Health Centers**

Authority: The provisions of this Subpart C issued under sec. 203, 77 Stat. 291; 42 U.S.C. 2563. Secs. 200 to 207, 401-407, 77 Stat. 290-294, 296-299; 42 U.S.C. 2561-2567, 2591-2596.

Source: The provisions of this Subpart C appear at 29 FR 5951, May 6, 1964, unless otherwise noted.

§ 54.201 Definitions.

* Published at 45 FR 48493, July 18, 1980.

§ 54.201 Definitions.

As used in this subpart all terms not defined herein shall have the same meaning as indicated in the Act.

(a) "Act" means the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (Pub. L. 88-164).

(b) "Area" means the geographic territory which includes one or more communities served or to be served by existing or proposed community mental health facilities, the delineation of which is based on such factors as population distribution, natural geographic boundaries, and transportation accessibility. Nothing in the regulations in this subpart shall preclude the formation of an interstate area with the mutual agreement of the States concerned.

(c) "Community" means an area or that portion of an area served or to be served by a program providing at least the essential elements of comprehensive mental health services as specified in § 54.212.

(d) "Community mental health facility" means a community mental health center (as defined in section 401(c) of the Act) for the provision of services which, either alone or in conjunction with other facilities owned or operated by the applicant or affiliated or associated with the applicant, will be part of a program providing, principally for persons residing in a particular community or communities in or near which the center is situated, at least those essential elements of comprehensive mental health services that are prescribed by § 54.212.

(e) "Community services" means that the services to be furnished by a program providing at least the essential elements of comprehensive mental health services will be available to the general public.

(f) "Comprehensive mental health planning" means the planning on a statewide basis for the provision of adequate mental health services, taking into consideration such factors as problems of availability of manpower and facilities, the role of mental hospitals, the development of new improved methods for the treatment or prevention of mental illness, and laws applicable to the mentally ill.

(g) "Comprehensive mental health services" means a complete range of all the elements of service specified in § 54.203(a) in sufficient quantity to meet the needs of persons residing within the community served by a community mental health facility, taking into consideration factors such as the age group served, diagnostic categories treated, and the availability of short, medium and long term care.

(h) "Elements of service" means the individual types of mental health services prescribed in § 54.203(a).

(i) "Essential elements of comprehensive mental health services" means those elements of service prescribed in § 54.212(a).

(j) "Equipment" includes those items which are necessary for the functioning of the

facility, but does not include items of current operating expense such as glassware, chemicals, food, fuel, drugs, paper, printed forms, and soap.

(k) "Program" means the existence of and the administrative and working relationships between at least the essential elements of comprehensive mental health services to be provided to a community served by a community mental health facility which meets the criteria of § 54.212.

(l) "Population" means the latest figures of total population residing in the States as certified by the Federal Department of Commerce.

(m) "Surgeon General" means the Surgeon General of the Public Health Service.

(n) "Title II of the Act" means the "Community Mental Health Centers Act" [Title II, Pub. L. 88-164], [29 FR 5951, May 8, 1964, as amended at 32 FR 8146, June 7, 1967]

§ 54.203 State plan; elements of adequate services; facilities; relationship to other planning.

(a) *Adequate services.* The State plan shall provide for the following elements of service which are necessary to provide adequate mental health services for persons residing in the State, which shall constitute the elements of comprehensive mental health services:

- (1) Inpatient services;
- (2) Outpatient services;
- (3) Partial hospitalization services such as day care, night care, week-end care;
- (4) Emergency services 24 hours per day must be available within at least one of the first three services listed above;
- (5) Consultation and education services available to community agencies and professional personnel;
- (6) Diagnostic services;
- (7) Rehabilitative services, including vocational and educational programs;
- (8) Pre-care and after-care services in the community, including foster home placement, home visiting and half-way houses;
- (9) Training;
- (10) Research and evaluation.

(b) *Adequate facilities.*—(1) *Provision of services.* Based on comprehensive mental health planning, the State plan shall provide for adequate community mental health facilities for the provision of programs of comprehensive mental health services to all persons residing in the State and for furnishing such services to persons unable to pay therefor, taking into account the population necessary to maintain and operate efficient facilities and the financial resources available therefor.

(2) *Accessibility of services.* The State plan shall provide that every community mental health facility shall:

- (i) Serve a population of not less than 75,000 and not more than 200,000 persons except that the Surgeon General may, in particular cases, permit modifications of this population range if he finds that such modifications will not impair the effectiveness of the services to be provided;
- (ii) Be so located as to be near and readily accessible to the community and population to be served, taking into account both political and geographical boundaries;
- (iii) Provide a community service; and

(iv) Provide needed services for persons unable to pay therefor.

(c) *Financial feasibility.* The State plan shall set forth the policies and criteria to be used in evaluating the adequacy of financial support for the maintenance and operation of the program as described in § 54.212 when construction is completed, which shall include such factors as the proposed source or sources of funds, and the per capita and family income range of the population to be served.

§ 54.209 State plan; assurances from applicant.

In addition to any other requirements imposed by law each construction grant shall be subject to the condition that the applicant will furnish and comply with the following assurances. The Surgeon General may at any time approve exceptions to these assurances and conditions where he finds that such exceptions are not inconsistent with the Act and the purposes of the program.

(a) That applicant (or other public or nonprofit agency which is to operate the facility) has or will have a fee simple or such other estate or interest in the site, including necessary easements and rights-of-way, sufficient to assure for a period of not less than 50 years undisturbed use and possession for the purpose of the construction and operation of the facility.

(g) That applicant will maintain adequate and separate accounting and fiscal records and accounts for all funds provided from any source to pay the cost of the project, and permit audit of such records and accounts at any reasonable time.

(h) That applicant will furnish progress reports and such other information as the Surgeon General may require.

(k) That sufficient funds will be available when construction is completed for effective use of the facility for the purpose for which it is being constructed.

(m) That the facility will be operated and maintained in accordance with minimum standards prescribed by the State agency for the maintenance and operation of such facilities.

(n) That the services to be provided by the facility, alone or in conjunction with other facilities owned or operated by the applicant, will be made available for a program providing, principally for persons residing in a particular community or communities in or near which such facility is to be situated, at least those essential elements of comprehensive mental health services prescribed in § 54.212.

[29 FR 5951, May 8, 1964, as amended at 32 FR 8146, June 7, 1967; 38 FR 28197, Sept. 19, 1973]

§ 54.210 Community service; services for persons unable to pay; nondiscrimination.

(a) *Community service; services for persons unable to pay; nondiscrimination on account of creed; nondiscrimination in construction contracts.* Before an application for the construction of a community mental health center is recommended by a State agency for approval, the State agency shall obtain assurances from the applicant that:

(1) The facility will furnish a community service:

(2) The facility will furnish below cost or without charge a reasonable volume of services to persons unable to pay therefor. As used in this paragraph, "persons unable to pay therefor" includes persons who are otherwise self-supporting but are unable to pay the full cost of needed services. Such services may be paid for wholly or partly out of public funds or contributions of individuals and private and charitable organizations such as community chest or may be contributed at the expense of the facility itself. In determining what constitutes a reasonable volume of services to persons unable to pay therefor, there shall be considered conditions in the area to be served by the applicant, including the amount of such services that may be available otherwise than through the applicant. The requirements of assurance from the applicant may be waived if the applicant demonstrates to the satisfaction of the State agency, subject to subsequent approval by the Surgeon General, that to furnish such services is not feasible financially:

(3) All portions and services of the entire facility for the construction of which, or in connection with which, aid under the Federal Act is sought, will be made available without discrimination on account of creed; and no professionally qualified person will be discriminated against on account of creed with respect to the privilege of professional practice in the facility:

(4) That the applicant will comply with the requirements of, and give the assurances required in, Executive Order 11114, June 22, 1963 (28 F.R. 8485), and the applicable rules, regulations, and procedures prescribed pursuant thereto by the President's Committee on Equal Employment Opportunity (28 F.R. 9812).

(b) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; Pub. L. 88-352) which provides that no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance (sec. 601). A regulation implementing such Title VI applicable to grants for construction of community mental health centers, has been issued by the Secretary of Health, Education, and Welfare with the approval of the President (45 CFR Part 80). This regulation, published in the Federal Register of December 4, 1964 (29 FR 16298-16305) is effective on January 3, 1965, the 30th day after publication. (30 F.R. 2443, Feb. 23, 1965)

§ 54.212 Projects; essential elements of comprehensive mental health services; program requirements.

(a) *Essential elements of comprehensive mental health services.* The essential elements of comprehensive mental health services are:

- (1) Inpatient services.
- (2) Outpatient services.
- (3) Partial hospitalization services—must include at least day care service.

(4) Emergency services provided 24 hours per day must be available within at least one of the first three services listed above.

(5) Consultation and education services available to community agencies and professional personnel.

(b) *Services of facility as part of a program.* To the extent that the services to be provided within the proposed facility do not constitute a program providing at least the essential elements of comprehensive mental health services, the application shall demonstrate to the satisfaction of the Surgeon General that the services to be provided within the proposed facility will be part of such a program (as described below).

(c) *Criteria of program.* As used in this section, a program for providing at least the essential elements of comprehensive mental health services must take into consideration the needs of all age groups, assure continuity of care for patients and assure that the relationship between the individual elements of the services meets the following criteria:

- (1) (i) That any person eligible for treatment within any one element of service will also be eligible for treatment within any other element of service;
- (ii) That any patient within any one element can and will be transferred without delay to any other element (provided that adequate space is available) whenever such a transfer is indicated by the patient's clinical needs;
- (iii) The clinical information concerning a patient which was obtained within one element be made available to those responsible for that patient's treatment within any other element;
- (iv) That those responsible for a patient's care within one element can, when practicable and when not clinically contraindicated, continue to care for that patient within any of the other elements; and
- (v) In cases where two or more of the individual elements of services are provided by different organizations, agencies, or persons, the relationships between the individual elements must be evidenced by appropriate contracts or other formal written agreements (copies of which must accompany the application) among the various organizations, agencies, or persons which make specific provisions for assuring compliance with the criteria set forth in this section.

(2) The medical responsibility for each patient will be vested in a physician. Psychiatric consultation must be available on a continuing and regularly scheduled basis, not less than once weekly.

(3) The overall direction of a center may be carried out by a properly qualified member of any one of the mental health professions.

(4) That general practitioners and other non-psychiatric physicians in the community served by the program will be allowed, when qualified, to follow and assist in the care of their patients on the various services of the program provided they are working under the supervision of a member of the psychiatric staff of the service.

(5) That the services of the program will not be denied to any person residing within the area served solely on the ground that such person does not meet a requirement for a minimum period of residence in such area.

(d) *Budgetary and staffing pattern.* The application shall include a description of the proposed sources of operating income for all elements of service included in the program and a proposed operating program budget for the two-year period immediately following the completion of construction of the facility. There shall also be included the proposed staffing pattern for all elements of the program by major professional categories. (29 FR 5951, May 6, 1964, as amended at 32 F.R. 6146, June 7, 1967)

§ 54.213 Change of status of facility.

The State agency shall promptly notify the Surgeon General in writing, if at any time within 20 years after the completion of construction, any facility which received funds under Title II of the Act is sold or transferred to any person, agency, or organization not qualified to file an application under Title II of the Act or is not approved as a transferee by the State agency, or ceases to be a public or nonprofit community mental health center as defined in the Act.

§ 54.214 Good cause for other use of facility.

If within 20 years after completion of any construction for which a construction grant has been made the facility shall cease to be a public or nonprofit community mental health center, the Surgeon General in determining whether there is good cause for releasing the applicant or other owner of the facility from the obligation to continue such facility as a public or other nonprofit community mental health center, shall take into consideration the extent to which:

(a) The facility will be devoted by the applicant or other owner to use for another public purpose which will promote the purpose of the Act; or

(b) There are reasonable assurances that for the remainder of the 20 year period other facilities not previously utilized for the care of the mentally ill will be so utilized and are substantially equivalent in nature and extent for such purposes.

§ 54.214a Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this subpart:

45 CFR Part 74

Subpart

- A General.
- B Cash Depositories.
- C Bonding and Insurance.
- D Retention and Custodial Requirements for Records.
- F Grant-Related Income.
- G Matching and Cost Sharing.
- K Grant Payment Requirements.
- L Budget Revision Procedures.
- M Grant Closeout, Suspension, and Termination.
- O Property.
- Q Cost Principles.

(38 FR 26197, Sept. 18, 1973)

APPENDIX G**INSTRUCTIONS FOR SITE VISITS****Persons who may be involved:**

A NIMH representative

A SMHA representative

The Director of the CMHC

A representative of the grantee, if the CMHC is not operated by the grantee

Members of the Governance Board of the facility

Members of the Community Advisory Board of the facility, (if such Board exists)

The Director or Head of each of the five essential elements of service

Documents to be reviewed:

Original application approved for the CMHC construction grant, plus revisions or updates, if any

The CMHC's annual report

Minutes of Board meetings

Affiliation agreements and contracts

Survey and accreditation reports

Fee schedules

Records regarding the amount of service provided below cost or without charge

Conduct of visit:

Opening meeting to discuss purpose of the visit, and to develop the agenda for the visit

Examination of how the grant-assisted space is being used

Examination of each of the essential elements of service

Determination of the volume of services provided for persons unable to pay therefor during the past year

Determination of compliance with assurances and conditions of the grant

Closing meeting summarizing findings

Report of Site Visit:

Within 10 (ten) working days of completion of visit

APPENDIX H

SAMPLE ACKNOWLEDGEMENT OF FEDERAL INTEREST

In exchange for a waiver of Federal recovery under section 2613 of the Public Health Service Act, 42 U.S.C. 300aaa-12, _____ agrees to operate the _____ Hospital as a community mental health center as required by NIMH grant # _____, Title II of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, Pub. L. 88-164, and 42 CFR Part 54, Subpart C (1975). A copy of the waiver of Federal recovery is attached and the terms and conditions set forth therein are incorporated into, and made a part of, this "Acknowledgement of Federal Interest." If at any time before the end of the 20-year period of obligation (as described in paragraph #2 of the attached waiver), _____ Hospital ceases to be operated as a community mental health center as required by the terms of the waiver, or is sold or transferred without approval by the National Institute of Mental Health, the Federal Government shall be entitled to recover from the grantee, _____, and the _____ Hospital, its proportionate share of the current value of _____ Hospital at the time it ceases to be so operated or is sold or transferred, plus interest, if any. This share shall be calculated according to the method set forth in 42 U.S.C. 300aaa-12, to wit, it shall be equivalent to the percentage of Federal participation in the total cost of approved construction, remodeling, acquisition, or expansion under the original community mental health center construction grant, NIMH grant # ____.

Signed and acknowledged on behalf of the County of _____, _____.

Chairman, Board of Directors

Date

Attachment

State of _____
County of _____

Before me, the undersigned authority, on this day personally appeared _____, Chairman, Board of Directors, _____, _____ County, _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same in his capacity as officer of the _____.

Given under my hand and seal of office this the _____ day of _____, 198__.

Notary Public for _____
County, _____

My Commission Expires: _____

APPENDIX I

RESOLUTION

(Name of entity)

BE IT RESOLVED, that the (governing body) of (name of entity) accepts the obligation to provide the five essential community mental health services, to provide a reasonable volume of free care and a community service, and to meet the other requirements of a community mental health center construction grantee in accordance with the Community Mental Health Centers Act, Title II of Pub. L. 88-164, the regulations, 42 CFR Part 54, Subpart C (1975), and NIMH Grant # _____.

Adopted (date) .

(date of signature)

(signature of authorized official)